

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$200.00 for dates of service.
- b. The request was received on 02/25/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and an undated Statement of Disputed Issue
 - b. HCFA(s)
 - c. Medical Audit summary dated 12/31/01
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. TWCC 60
 - b. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (4), the Division forwarded a copy of the requestor's additional documentation to the carrier on 03/26/02. The respondent did not respond to the additional documentation. It's initial response is reflected in Exhibit II.
4. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: The requestor states in the undated Statement of Disputed Issue, "(i) Rental of RS4I Sequential Stimulator....a combination 4 channel muscle stimulator/interferential electrotherapy device. (ii) Payment has been made based on old fee guidelines for E0745, which had a D code in the pre 1996 fee schedule, which is not a comparable device as it provides only muscle stimulation....There are no fee guidelines for devices billed under E1399. Fee guidelines call for reimbursement at fair and reasonable rates."

2. Respondent: The carrier did not respond.

IV. FINDINGS

- Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 08/27/01 and extending through 10/26/01.
- The medical audit dated 12/31/01 stated, "Payment made in accordance with TWCC Medical Fee Guideline."
- No other EOB(s) or medical audits were noted, therefore, the Medical Review Division's decision is rendered based on the codes submitted to the provider prior to the date of this dispute being filed.
- The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code(s)	MARS	REFERENCE	RATIONALE:
08/27/01-09/26/01	E1399	\$250.00	\$150.00	F	DOP	Texas Workers' Compensation Act & Rules, Sec. 413.011 (b) ; MFG GI (III); DME GR (IX); CPT descriptor	Because there are no current fee guidelines for the DME provided, the Medical Review Division has to determine based on the parties' submission of information, what represents fair and reasonable reimbursement. The MFG, GI (III) states, "(DOP) in the ... (MAR) column indicates that the value of this service shall be determined by written documentation attached to or included in the bill." This places the burden on the provider to show what is fair and reasonable reimbursement. The provider submitted EOB(s) to document fair and reasonable reimbursement. However, recent SOAH decisions have given minimal weight to EOB(s) for documenting fair and reasonable reimbursement. The willingness of some carrier's to reimburse at or near the billed amount does not necessarily document that the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011 (b). Therefore, no additional reimbursement is recommended.
09/27/01-10/26/01	E1399	\$250.00	\$150.00	F	DOP		
Totals		\$500.00	\$300.00				The Requestor is not entitled to reimbursement.

MDR: M4-02-2173-01

The above Findings and Decision are hereby issued this 10th day of July 2002.

Donna M. Myers, B.S.
Medical Dispute Resolution Officer
Medical Review Division

DMM/dmm

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.